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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,566	11/01/2001	Chana L. Weaver	5603USA	3780
30173	7590	02/27/2006	EXAMINER	
GENERAL MILLS, INC. P.O. BOX 1113 MINNEAPOLIS, MN 55440			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3639	
DATE MAILED: 02/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/002,566	<b>Applicant(s)</b> WEAVER ET AL.	
	<b>Examiner</b> Akiba K. Robinson-Boyce	<b>Art Unit</b> 3639	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/11/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

1. Due to the response to the Election/Restriction filed 12/1/05, the following is a non-final office action. Claims 1-14 were originally pending in this application. Due to the response to election/restriction, the applicant has elected Invention III (Claims 5-13) with traverse. Due to this election, claims 1-4 and 14 have been withdrawn from consideration.

### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2, drawn to cost/price, classified in class 705, subclass 400.
- II. Claims 3-4, drawn to market analysis/demand forecasting, classified in class 705, subclass 10.
- III. Claims 5-13, drawn to operations research, classified in class 705, subclass 7.
- IV. Claim 14, drawn to data processing/scoring, classified in class 700, subclass 92.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as determining a management plan according to pricing information in order to increase

product sales, where invention II deals with creating a market analysis according to product categories. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as creating a market analysis according to product categories, where invention III deals with creating a report based on consumer purchase tracking data. See MPEP § 806.05(d).

Inventions III and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as creating a report based on consumer purchase tracking data, where invention I, deals with determining a management plan according to pricing information in order to increase product sales. See MPEP § 806.05(d).

Inventions IV and I, II or III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as utilizing a sore card technique to help develop category management information, Invention I deals with determining a management plan according to pricing information in order to increase product sales, while invention II deals with creating a report based on consumer purchase tracking data. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group III, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group I, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group IV is not required for Groups I, II, or III, restriction for examination purposes as indicated is proper.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by Dippold (US 2002/0133479 A1).

As per claim 6, Dippold discloses category management method comprising:

obtaining data from plural data sources including a consumer purchase tracking data set and a demographics data set, (Page 1, paragraph [0002], lines 1-17, data about products purchased are collected, in this case, the collection of a demographic data set is inherent with Dippold since it is shown that demographic data is correlated with product data in paragraph [0002], lines 17-23, and the demographic data had to be collected in order to be presented as data);

using automated analysis to analyze said data sources, (page 3, paragraph [0026], lines 1-17, shows that an automatic procedure shown for categorizing products and used as a standard against which the category definitions may be analyzed); and

providing an integrated category management report based at least in part on said analysis, (Page 1, paragraph [0002], lines 17-23, correlation of products purchased and demographics in order to generate appropriate reports).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dippold (2002/0133479 A1) as applied to claim 6 above.

As per claim 5, Dippold discloses a category management method comprising:  
obtaining data from plural data sources including a consumer purchase

tracking data set and a demographics data set, (Page 1, paragraph [0002], lines 1-17, data about products purchased are collected, in this case, the collection of a demographic data set is inherent with Dippold since it is shown that demographic data is correlated with product data in paragraph [0002], lines 17-23, and the demographic data had to be collected in order to be presented as data);

analyzing said data sources to provide an integrated category management report, (Page 1, paragraph [0002], lines 17-23, correlation of products purchased and demographics in order to generate appropriate reports).

dynamically including or excluding further detailed information from said report depending on whether additional analysis results are available, (Page 3-Page 4, paragraph [0036], shows that data in database is updated whenever new data is available, therefore is updated dynamically in relation to new data, w/ Page 3, paragraph [0035], shows that for ease of report generation, product data, etc. is stored in relation to UPCs in the database, therefore, inclusion/exclusion of data from the report is obvious since the reports are produced from the data stored in the database, and if the data in the database changes, so will data in the final report).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include/exclude data from the report with the motivation of producing a report in conjunction with the main source of data.

9. Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dippold (2002/0133479 A1) as applied to claim 6 above, and further in view of McConnell et al (US 2001/0049690 A1).

As per claim 7, Dippold discloses a category management method comprising:  
obtaining data from plural data sources including at least a consumer purchase tracking data set, a demographics data set, (Page 1, paragraph [0002], lines 1-17, data about products purchased are collected, in this case, the collection of a demographic data set is inherent with Dippold since it is shown that demographic data is correlated with product data in paragraph [0002], lines 17-23, and the demographic data had to be collected in order to be presented as data);

analyzing said data sources, (page 3, paragraph [0026], lines 1-17, shows that an automatic procedure shown for categorizing products and used as a standard against which the category definitions may be analyzed);

providing an integrated category management report based at least in part on said analysis, (Page 1, paragraph [0002], lines 17-23, correlation of products purchased and demographics in order to generate appropriate reports);

Dippold fails to disclose and at least one planogram, but does disclose product data on page 1, paragraph [0002], lines 6-7.

However, McConnell et al discloses:

at least one planogram, (Page 24, Col. 1, lines 4-8 [claim 47], shows at least one planogram type is used in conjunction with correlating items). McConnell et al discloses this limitation in an analogous art for the purpose of showing that planograms, which is no more than a diagram of a product display can be used in conjunction with monitoring or tracking sales).



It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include at least one planogram with the motivation of using a diagram of a product display to manage products.

Dippold fails to disclose delivering said report at least in part over a network, but does disclose the generation of reports on page 1, paragraph [0002], lines 17-23.

However, McConnell et al discloses:

delivering said report at least in part over a network, (Page 8, paragraph [0083], lines 4-6, reporting product sales by informing these results to the retailer). McConnell et al discloses this limitation in an analogous art for the purpose of showing that sales tracking information can be reported to a retailer so proper action can be taken.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to deliver the report at least in part over a network with the motivation of allowing entities of the network to access reports.

As per claim 8, Dippold discloses;

wherein said report includes interactive fields that can call up additional information, (Page 3-Page 4, paragraph [0036], shows that data in database is updated whenever new data is available, therefore is updated dynamically in relation to new data, in this case the database is refreshed by having the variable n set to zero and incremented by 1, then loading any new product data).

As per claim 9, Dippold discloses;

using automated analysis to analyze said data sources, (page 3, paragraph [0026], lines 1-17, shows that an automatic procedure shown for categorizing products and used as a standard against which the category definitions may be analyzed).

As per claim 10, Dippold discloses;

further including dynamically including or excluding further detailed information from said report depending on whether additional analysis results are available, (Page 3-Page 4, paragraph [0036], shows that data in database is updated whenever new data is available, therefore is updated dynamically in relation to new data, w/ Page 3, paragraph [0035], shows that for ease of report generation, product data, etc. is stored in relation to UPCs in the database, therefore, inclusion/exclusion of data from the report is obvious since the reports are produced from the data stored in the database, and if the data in the database changes, so will data in the final report).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include/exclude data from the report with the motivation of producing a report in conjunction with the main source of data.

As per claim 11, Dippold discloses;

further including providing a score card that tracks said category management over time, (Page 3, paragraph [0033], lines 1-15, scoring rules used to choose a final category).

As per claim 12, Dippold fails to disclose wherein said network is the Internet but does disclose a network that includes a processor, database and communications server on Page 2, paragraph [0022], lines 1-3.

However, McConnell et al discloses:

wherein said network is the Internet, (Page 4, paragraph [0041], lines 1-6, Internet). McConnell et al discloses this limitation with the motivation of showing that the monitoring/tracking of sales can be done over the Internet.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the network to be the Internet with the motivation of tracking products over a wide area network.

As per claim 13, Dippold fails to disclose wherein said network is a local area network but does disclose a network that includes a processor, database and communications server that can be a relational database on Page 2, paragraph [0022], lines 1-5.

However, McConnell et al discloses:

wherein said network is a local area network, Page 3, paragraph [0037], lines 13-15, LAN]. McConnell et al discloses this limitation with the motivation of showing that the monitoring/tracking of sales can be done over a local area network.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the network to be a local area network with the motivation of tracking products locally.

### ***Response to Arguments***

10. Due to applicant's concern and statement of impropriety, a description of the Election/Restriction previously given, along with statements further describing why each

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invention has separate utility and are distinct from each other has been provided as disclosed above in paragraph 3 of this action.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.

February 16, 2006